(79)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH: Hon'ble Shri S.R. Nayak, CJ

WRIT PETITION No. 6515 OF 2005

PETITIONER		Bal Ashram, A society registered and incorporated under Society Registrikaran Adhiniyam, 1973, having registered office at Kutchery Chowk, Raipur, Represented through the Secretary, Shantilal Parakh, Son of Late M.L. Parakh, Resident of Kutchery Chowk, Bal Ashram Campus, Raipur (C.G.)
		Versus
RESPONDENTS	1.	State of Chhattisgarh, Through the Secretary, Firms & Societies, Mantralay, D.K.S. Bhawan, Raipur (C.G.)
	2.	The Registrar, Firms & Societies, 'O'-5, Anupam Nagar, Raipur (C.G.)
	3.	The Assistant Registrar, Firms & Societies 'O'5, Anupam Nagar, Raipur (C.G.)

Present: Mr. Kishore Bhaduri learned counsel for the petitioner.
Mr. N.K. Agrawal, learned Dy. A.G. with Mr. Yashwant Singh, learned Govt. Advocate for the State.

ORAL ORDER
(Passed on 5th of January, 2006)

The petitioner-Bal Ashram was initially registered under the provisions of Society Registration Act, 1860 (Central Act No. 21/1860) and subsequently, it was incorporated under the provisions of Society Registrikaran Adhiniyam, 1973 *(for short "Adhiniyam")* and it has registered office at Kutchery Chowk, Raipur.

(2) The second respondent who is empowered to conduct enquiry envisaged under Section 32 of the Adhiniyam, it is stated, conducted an enquiry into the management and affairs of the petitioner-

society and by his communication dated 27-08-2005 addressed to the petitioner-society, communicated his findings and called upon the petitioner-society to submit its reply/explanation for the lapses and violations pointed out in the said communication. It is stated that the petitioner-society submitted its reply to the Registrar and without waiting for further order of the Registrar, the petitioner-society filed writ petition No. 3247 of 2005 in this Court questioning the validity of the communication dated 27-8-2005. Simultaneously, the petitioner-society also preferred an appeal to the Government of Chhattisgarh under Section 40 of the Adhiniyam against the communication of the Registrar dated 27-8-2005. The petitioner-society did not press the writ petition and accordingly, the writ petition No. 3247 of 2005 was dismissed by this Court as not pressed by its order dated 21-12-2005. Well before this date, it appears that even the State Government passed order on 07-12-2005dismissing the appeal. The petitioner-society has preferred this writ petition against the above order of the Government dated 07-12-2005.

(3) Heard learned counsel for the parties.

(4) Shri Kishore Bhaduri, learned counsel for the petitioner would strenuously contend that initiation of the proceedings under Section 32 of the Adhiniyam is *ex-facie* illegal and without authority of law inasmuch as the petitioner-society is not a State aided society. In support of his submission, learned counsel would place reliance on the judgment of the Division Bench of the Madhya Pradesh High Court in the case of **Adarsh Vidya Mandir Vs. State of M.P.** [1]. Learned counsel for the

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petitioner would also contest the correctness of the findings recorded by the Registrar in the communication sent to the petitioner-society.

(4) On the other hand, Shri N.K. Agrawal, learned Deputy Advocate General appearing for the State would support the impugned communication and contend that the present writ petition is premature and liable to be dismissed in *limine* without going to the merits of the matter.

(5) The contention advanced on behalf of the petitioner is not well-founded. Sub-Section (1) of Section 32 of the Adhiniyam reads as follows:

> "**32. Enquiry and settlement of disputes-** (1) The Registrar may, on his own motion or on an application made under sub-Section (2) either by himself or by a person authorised by him, by order in writing, hold an enquiry into the constitution, working and financial conditions of a society".

Sub-Section (1) of Section 32 of the Adhiniyam, in unmistakable terms, arms the Registrar either *suo motu* or on an application made under sub-Section (2) to hold an enquiry into the constitution, working and financial conditions of 'a society ' either by himself or by a person authorised by him, by order in writing. The language employed in sub-Section (1) is precise, plain and unambiguous. It does not imply more than one meaning. In other words, sub-Section (1) arms the Registrar or his delegate to conduct an enquiry into the constitution, working and financial conditions of any society which falls within the purview of the Adhiniyam and that power is not restricted to conduct an enquiry only with regard to State aided society as contended by Shri Kishore Bhaduri, learned

counsel for the petitioner. The judgment of the Division Bench of Madhya Pradesh High Court in the case of **Adarsh Vidya Mandir (supra)** is of no help to the learned counsel for the petitioner to support his submission. In that case, the Madhya Pradesh High Court was called upon to interpret the term ' State aided society ' as defined in clause (f) of Section 3 of the Adhiniyam for the purpose of Section 33 of the Adhiniyam, which Section deals with supersession of governing body of any State aided society. I am at a loss to understand how that judgment in any way would support the contention of the learned counsel for the petitioner. The Legislature quite consciously used the term ' a society ' in sub-Section (1) of Section 32, whereas it has used the term 'State aided society ' in Section 33 of the Adhiniyam. In other words, the law-maker himself has made a distinction between ' a society ' and ' a State aided society ' for different purposes dealt with by it in the Adhiniyam. Therefore, the jurisdiction of the Registrar to conduct an enquiry under Section 32 of the Act against the petitioner- society could not be doubted. If the Registrar has power and competence to conduct an enquiry either by himself or through his delegate, there is absolutely no warrant for this Court to step-in under Article 226 of the Constitution, particularly at this stage and review the impugned findings recorded in the communication of the Registrar dated 27.08.2005. As stated by learned counsel for the petitioner-society, the petitioner-society has already submitted its reply to the findings recorded by the Registrar in his communication dated 27.08.2005 and now it is upto the Registrar to appreciate the reply of the petitioner-society and issue/ pass appropriate directions/orders. If the ultimate directions/orders to be issued by the Registrar go against the petitioner-Society, the petitioner - Society can workout its legal remedies as provided under the Adhiniyam.

In that view of the matter, the proceedings initiated by the petitioner-Society either before the Government or before this Court are totally unwarranted and unnecessary.

(6) In the result and for the foregoing reasons, the writ petition is dismissed. No costs.

Sd/-
Chief Justice
Judge